

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

DIPESH PATEL, INDIVIDUALLY,	)	
ALPABEN PATEL, INDIVIDUALLY,	)	
AND RUSHABH PATEL,	)	
INDIVIDUALLY,	)	Civil Action File No.
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
EXCEL TRANS MANAGEMENT INC.,	)	
QUALITAS INSURANCE COMPANY,	)	
AND NAM SUK CHOI,	)	
	)	
Defendants.	)	

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**NOTICE OF AND PETITION FOR REMOVAL**

COMES NOW Petitioners/Defendants Excel Trans Management, Inc., Qualitas Insurance Company, and Nam Suk Choi and show this Honorable Court the following:

1.

A civil action was filed by the above-named Plaintiffs Dipesh Patel, Alpaben Patel, and Rashab Patel in the State Court of Henry County, State of Georgia, naming as Defendants Excel Trans Management, Inc., Qualitas Insurance Company and Nam Suk Choi, Civil Action File No. STSV2023000243. True and correct copies

of all process, pleadings, and orders served on Defendants in the State Court of Henry County are attached hereto as Exhibit “A.”

2.

In their Complaint, Plaintiffs seek damages stemming from injuries allegedly sustained during a motor vehicle accident occurring on April 2, 2021 (Compl. ¶¶ 10-14).

3.

Plaintiffs Dipesh Patel, Alpaben Patel, and Rashab Patel are now, and were at the time this lawsuit was filed, citizens of the State of Georgia (Compl. ¶¶ 2-4).

4.

Petitioner/Defendant Excel Trans Management, Inc. is now, and was at the time this lawsuit was filed, a foreign corporation organized and existing under the laws of the State of California, with its principal place of business at 14115 Casa Blanca Ct., Fontana, CA 92336. Therefore, Petition/Defendant Excel Trans Management, Inc. is deemed a citizen of California (Compl. ¶ 5).

5.

Petitioner/Defendant Qualitas Insurance Company is now, and was at the time this lawsuit was filed, a foreign corporation organized and existing under the laws of the State of California, with its principal place of business located at 4545 Murphy

Canyon Road, Suite 300, San Diego, California 9223. Therefore, Petitioner/Defendant Qualitas Insurance Company is deemed a citizen of California (Compl. ¶ 6).

6.

Petitioner/Defendant Nam Suk Choi is a natural person and is now, and was at the time this lawsuit was filed, a citizen of California. (Compl. ¶ 7).

7.

In support of the assertion of federal jurisdiction, Petitioners/Defendants Excel Trans Management, Inc., Qualitas Insurance Company, and Nam Suk Choi refer to the Complaint, in which Plaintiffs allege that they suffered “personal injuries and mental and physical pain as a result of the collision” which occurred on April 2, 2021. (Compl. ¶ 14). Further, Plaintiffs allege that “[a]s a proximate result of Defendants CHOI and/or EXCEL TRANS PLAINTIFF has suffered several physical injuries.” (Compl. ¶ 64).

8.

Notably, the Complaint omitted any description of the nature or extent of Plaintiffs’ injuries, or any estimate of the value of their special damages, sufficient to allow Defendants to ascertain whether this case was removable to federal court on the basis of diversity jurisdiction. (*See generally* Compl.).

9.

In an effort to gain further information on Plaintiffs' damages and to determine whether this case is removable, Defendant Nam Suk Choi sent his First Request for Admissions to Plaintiffs. When asked to admit that the amount in controversy is less than \$75,000, Plaintiffs Alpaben Patel and Rashab Patel admitted this Request, but Plaintiff Dipesh Patel denied it. (Plaintiffs' Response to Defendant Nam Suk Choi's First Request for Admissions attached hereto as Exhibit "B"). Furthermore, when asked to admit that Plaintiffs would not ask the jury for more than \$75,000, Plaintiffs Alpaben Patel and Rashab Patel admitted this Request, but Plaintiff Dipesh Patel denied it.

9.

The matter in controversy is one in which this Court has jurisdiction pursuant to 28 U.S.C. § 1332 as it involves citizens of different states, and the amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs. Therefore, pursuant to 28 U.S.C. §§ 1332 and 1441(a), this matter may be removed to this Honorable Court.

10.

Venue in this Court is proper pursuant to 28 U.S.C. §§ 1391 and 1441.

11.

This Notice of and Petition for Removal is filed within thirty (30) days after receipt by Petitioners/Defendants Excel Trans Management, Inc., Qualitas Insurance Company, and Nam Suk Choi of Plaintiffs' Response to Defendant Nam Suk Choi's First Request for Admissions, which allowed Petitioners/Defendants to ascertain that this case is removable based on the amount in controversy, and said civil action is sought to be removed to this Honorable Court pursuant to the provisions of 28 U.S.C. §§ 1441 and 1446, et. seq. This Notice and Petition for Removal is not being filed more than one year after commencement of the action.

WHEREFORE, Petitioners/Defendants Excel Trans Management, Inc., Qualitas Insurance Company, and Nam Suk Choi pray that this Notice of and Petition for Removal be filed, that the entire action referred to herein above be removed to and proceed in the United States District Court for the Northern District of Georgia, Atlanta Division, that no further proceedings be held in the case originally filed in the State Court of Henry County, State of Georgia, and that Petitioners/Defendants Excel Trans Management, Inc., Qualitas Insurance Company, and Nam Suk Choi have such other and further relief as this Honorable Court deems just and proper in the circumstances.

This 26<sup>th</sup> day of May, 2023.

Respectfully submitted,

/s/ Taylor T. Hanks

J. Skye Wellesley

Georgia Bar No. 265377

Taylor T. Hanks

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**LR 7.1(D) CERTIFICATE OF FONT COMPLIANCE**

I hereby certify that the foregoing has been prepared with one of the font and point selections approved by the Court in Local Rule 5.1(C), Northern District of Georgia, specifically Times New Roman 14 point.

This 26<sup>th</sup> day of May, 2023.

*(Signature continues on following page)*

Respectfully submitted,

/s/ Taylor T. Hanks

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 26, 2023, copies of **NOTICE OF AND PETITION FOR REMOVAL** were electronically served with the Clerk of Court using the CM/ECF system which will automatically send notification of such filing to the following attorneys of record:

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*Counsel for Plaintiffs*

This 26<sup>th</sup> day of May, 2023.

Respectfully submitted,

/s/ Taylor T. Hanks

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